

REMARKSDrawings

The Examiner has objected to many of the drawings under 37 CFR §1.83(a). However, under 37 CFR §1.81(a), Applicant believes the Examiner is stretching this requirement to an unnecessary degree.

For example, with regard to (a) toward the top of page 2 of the Office Action, the Examiner seems to be indicating that although Figure 2B illustrates sheathing (168), that some additional drawings must be submitted, but Applicant cannot comprehend what additional information such drawings could convey. Given that item 166 in Figure 2B is "some of the vertical or horizontal members," Applicant respectfully requests that the Examiner state more clearly what else is necessary.

With regard to (b) Applicant is adding the language to the specification regarding Figure 2B, that the sheathing 168 may extend to the length of tube 166. That should meet the Examiner's objection with the need for a drawing amendment.

With regard to (c), Figure 2C has been amended, though Applicant feels such an amendment is entirely unnecessary.

With regard (d), the following language is being added to the specification with respect to Figure 2B "the length of sheathing 168 may extend to the length of tube 166, in which case the outer diameter of sheathing 168 may fit into opening 164, enabling set screw 170 to press against the sheathing 168."

With respect to (e), this objection should also be met by the statement set forth above and added to the specification.

With regard to (a) at the bottom of page 2 of the Office Action, the casters are given a different numerical reference, namely, 121.

With regard to (b) on page 3, Applicant cannot comprehend why it would be necessary to show the fittings of Figures 2A and 2B in Figures 1, 3 or 4. In fact, Figures 1, 3 and 4 utilize an alternative fitting (i.e., 112, 140).

The above changes to the specification, in combination with the changes made to the drawings, constitute a proposed drawing correction including corrected drawings.

The number "30" on page 4, line 5 has been changed to --130--.

Revised  
Drawing  
Correction  
approved  
6/27/03

Claim Objections

Applicant has made most of the changes suggested by the Examiner, with the exception of the addition to "at least one" being inserted before "fitting" in claims 7 and 20. This is simply not the kind of language that Applicant uses in drafting claims.

Claims 1, 13, 32 and 33 stand rejected under 35 U.S.C. §112, first paragraph. Incredibly, the Examiner believes the specification does not state how the sheathing is "removable and replaceable." What more does the Examiner need? The sheathing simply slides onto the tube, and that is it. In different portions of the specification, Applicant states that the inner diameter of the sheathing is greater than the outer diameter of the tube, which would allow for it to slide onto the tube. <sup>-Spec doesn't say this</sup> Is the Examiner suggesting that the Applicant needs to submit accurate dimensions, a coefficient of friction, or something of this nature? Please advise. <sup>sliding is not the same thing as "removable & replaceable" (check spec. for quotes)</sup>

Claims 1-34 stand rejected under 35 U.S.C. §112, second paragraph. With regard to claims 1 and 13, -- adapted to -- has been inserted after "cubicle," as suggested by the Examiner. In claims 1, 2, 3, 17, 26 and 27, "horizontal and vertical" have been added to provide sufficient antecedent basis. With regard to claim 2, line 4 and claim 13, line 14, the Examiner states that the term "consumes" is "awkward." Is this an objection, or just an observation on the part of the Examiner? Applicant knows of no rule that "awkward terms" should be avoided. Perhaps the Examiner can point the Applicant to the relevant section of the Rules or MPEP.

With regard to claims 6 and 19, a slight modification has been made, but Applicant disagrees that further amendment is necessary. Despite the Examiner's focus on antecedent basis, Applicant believes such claims would be clear and unambiguous to anyone of skill in the art. With regard to claims 7 and 20, the Examiner seems to contend that something must be "round" to have a "diameter." Applicant respectfully disagrees, and for this reason, declines further amendment. For example, an oval, is a shape that has a *diameter*, which happens to vary.

Again, with regard to claims 10 and 23, the Examiner claims that "engaged by" is "awkward." Applicant has seen the expression "engaged by" in numerous issued patents. Applicant suggests that the Examiner do a search for this expression of issued patents for confirmation. The same is true of the "objection" to claim 30. In claims 12 and 25, "plastic" has been changed to "polymerized."

Claims 1, 2, 6, 13, 17, 26, 27 and 29 stand rejected under 35 U.S.C. §103(a) over Schreiner et al. ('658), alone.

The Examiner states that "the claims differ from Schreiner et al. '658 in requiring the sheathing to be polymeric (claims 1, 13 and 26). That is obviously not the only difference between Schreiner et al. and the claims under rejection. In particular, the Examiner states that Schreiner discloses "a plurality of sheathings," pointing to Figures 5 and 7, which, in the opinion of Applicant, show no such thing. With respect to Figure 5, although there is a covering 34, it is over a flexible conduit and not a structural member. With regard to Figure 7, items 42 and 94, which the Examiner is calling sheathings, are the actual structural member (42) and a retainer (94) used for fastening. Where, Applicant asks, does Schreiner et al. disclose polymeric sheathing covering vertical and/or horizontal structural members?

<sup>6/20/2</sup> Claim 6 includes the limitation of the polymerized sheathing as an interior diameter equal to or greater than the outer diameter of the metal tube that it covers. Where is this in Schreiner et al.?

Claims 3 and 28 stand rejected under 35 U.S.C. §103(a) over Schreiner et al., and further in view of Ball et al. ('769). The Examiner concedes that Schreiner et al. is silent as to a suspended cabinet, and states that it would have been obvious to modify Schreiner et al. "for increased storage capabilities and capacity." Not only is the wrong standard to be used in rejecting claims under 35 U.S.C. §103(a), given that Schreiner et al. already includes features for "increased storage capabilities and capacity," the additional of Ball to Schreiner would defeat the purpose of Schreiner et al. It is well settled that "[o]bviousness may not be established using hindsight or in view of the teachings or suggestions of the invention." Para-Ordnance Mfg. Inc. v. SGS Importers Int'l Inc., 73 F.2d at 1087, 37 USPQ2d at 1239 (citing W.L. Gore & Assoc., Inc. v. Garlock Inc., 721 F.2d at 1551, 1553, 220 USPQ at 311, 312-313). In rejecting claims under 35 U.S.C. §103, the Examiner must provide a reason why one having ordinary skill in the pertinent art would have been led to combine references to arrive at Applicant's claimed invention. Moreover, there must be something *in the prior art* that suggests the proposed modification, other than the hindsight gained from knowledge that the inventor choose to combine these particular things in this particular way. Uniroyal Inc. v. Rudkin-Wiley Corp., 837 F.2d 1044, 1051, 5 USPQ2d 1434, 1438 (Fed. Cir. 1988). The Examiner is further required to make specific findings on a

suggestion to combine prior art references. In Re Dembeczak, 175 F.3d 994, 1000-01, 50 USPQ2d 1614, 1617-19 (Fed. Cir. 1999). In this case, there is no teaching or suggestion whatsoever to modify Schreiner et al. with the teachings of Ball et al. *why?*

Claims 1, 2 and 5-10 stand rejected under 35 U.S.C. §103(a) over Richter et al. in view of Brandenburg. Richter et al. resides in a room divider for use in a day care or classroom setting, for example, including three interlocking panels that may be used in a C-shaped, Z-shaped, or triangular configuration. Richter et al. has nothing to do with office furniture. *- why not - it could be a divider* Brandenburg, on the other hand, resides in apparatus for supporting modular furniture and cooperating components such as computer, printers, and so forth. The apparatus of Brandenburg is meant to be added to a conventional cubicle or desk, as shown in Figures 7B, 7C and 8B. The Examiner states that it would have been obvious to have provided the system of Richter et al. '802 with a horizontal support surface for increased ease and use to the consumer. Such an argument notwithstanding, it is not only the lack of the horizontal support surface that undermines Richter and Brandenburg as a legitimate combination for the purposes of rejection, but additionally, there is no teaching or suggestion from either reference which would point to a combination, let alone such combination resulting in Applicant's invention as claimed.

Claim 4 stands rejected under 35 U.S.C. §103(a) over Richter et al. in view of Brandenburg, and further in view of Williams '544. Claim 4 includes a limitation of casters. Simply because Williams discloses a modular shelving system with casters, it does not mean that Applicant wishes to obtain patent protection *on casters*. Rather, it is the combination of claim 4 and claim 1 that Applicant believes to be protectable, and since there is no teaching or suggestion from the prior art to combine Richter, Brandenburg and Williams, claim 4 is allowable as well. *- no!*

Claims 11 and 12 stand rejected under 35 U.S.C. §103(a) over Richter et al. in view of Brandenburg, and further in view of Noble '412. Claim 11 includes a limitation where at least one of the structural fittings comprises a slip on fitting having an inner diameter greater than or equal to the polymerized sheathing, and claim 12 includes a limitation of a set screw to press against the polymerized sheathing. Not only is Noble from a non-analogous field, Noble does not even disclose

polymerized sheathing. Accordingly, claims 11 and 12 are clearly allowable over this combination of references.

↑  
not used  
for this!

Claims 13, 14, 18-23, 26 and 30-34 stand rejected under 35 U.S.C. §103(a) over Richter et al. alone. Despite the differences seen by the Examiner at the top of page 11, Applicant disagrees that it would have been obvious to provide the system of Richter et al. with all of the various deficiencies, "to therefore create a larger partition which allows for ease to the customer," since Richter et al. resides in a room divider for a day care or classroom. There is no teaching or suggestion whatsoever in Richter et al. as to the need for a "larger partition" which allows for "ease to the consumer."

↑

Claim 15 stands rejected under 35 U.S.C. §103(a) over Richter et al., and further in view of Goddard '834. Claim 15 includes the limitation of mesh panels. Although Goddard discloses mesh panels, they have nothing to do with modular office furniture including corner and "T" connectors, and, moreover, there is no suggestion in Richter et al. to use anything but solid panels (see col. 4, lines 12-20 of the '802 patent). Indeed, given that the assembly of Richter et al. is intended for *children*, the use of a mesh panel could be problematic if not hazardous, thereby defeating the stated goals of the Richter patent.

↑ why do this  
Kids need air?

Claim 16 stands rejected under 35 U.S.C. §103(a) over Richter et al., and further in view of Edwards '760. Claim 16 includes the limitation of infill panels that comprise sound absorption panels. Though Edwards mentions that the panels "are constructed of painted sheet metal cover which may be filled with sound absorbing insulation and covered with sound absorbing fabric or other materials," this does not constitute an *infill panel*, and if the teachings of Edward and Richter et al. were combined, it would render Richter et al. significantly heavier and dramatically less versatile.

↑ why?

Claims 24 and 25 stand rejected under 35 U.S.C. §103(a) over Richter et al. and further in view of Noble. Richter et al. resides in a pipe connector assembly with an internal locking mechanism for use as a room divider in a day care or classroom setting, whereas Noble resides in a modular part supply rack, intended for heavy duty use. What possible justification could the Examiner have for combining

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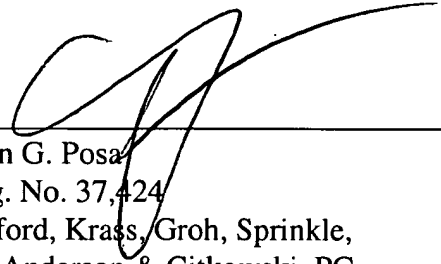
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these two references?

Based upon the foregoing amendments and comments, Applicant believes all claims are condition for allowance.

Respectfully submitted,

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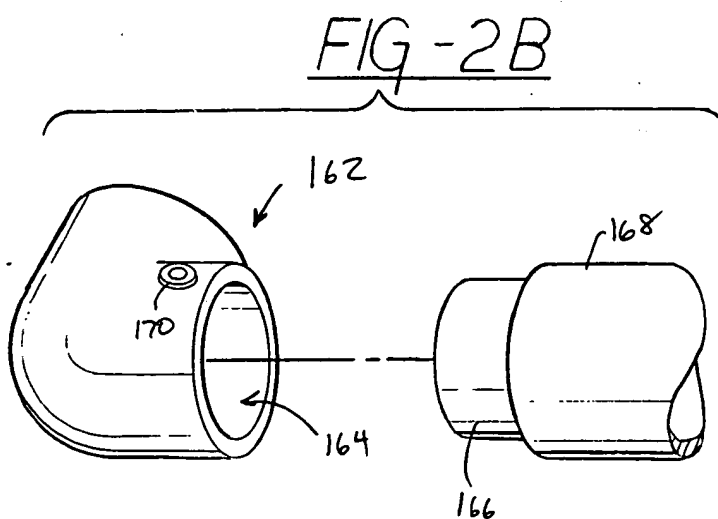
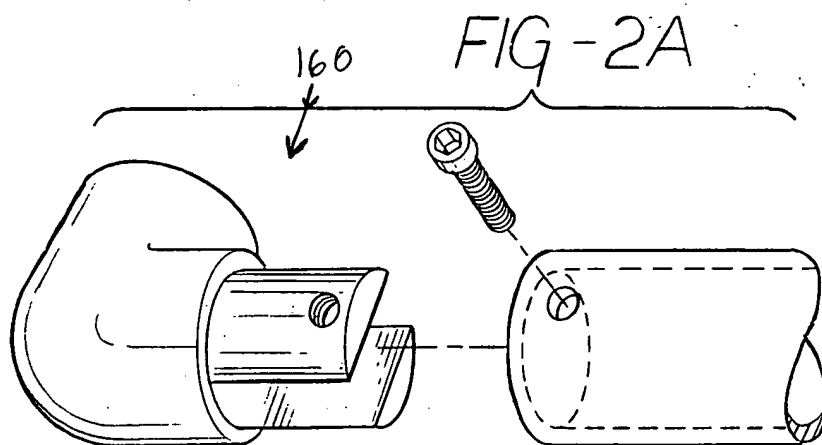
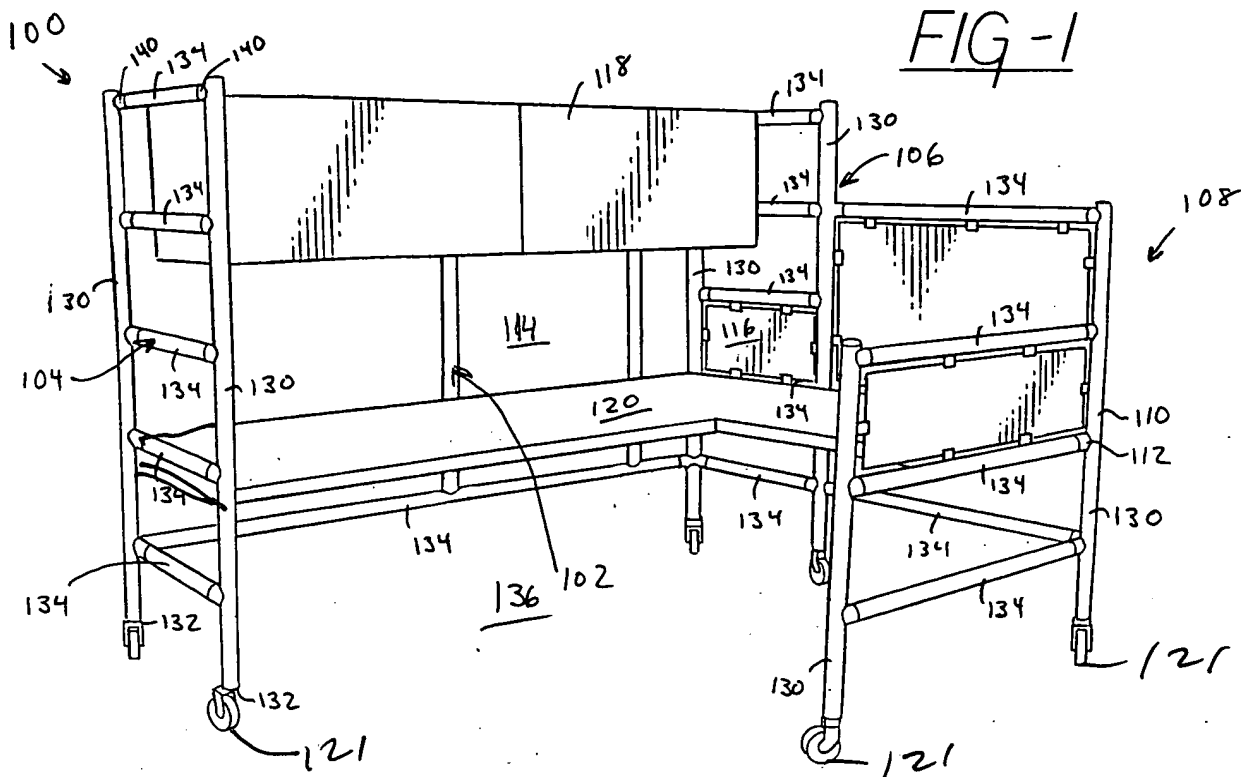
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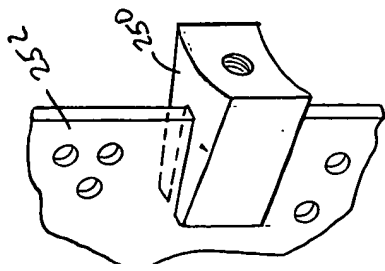


FIG-5

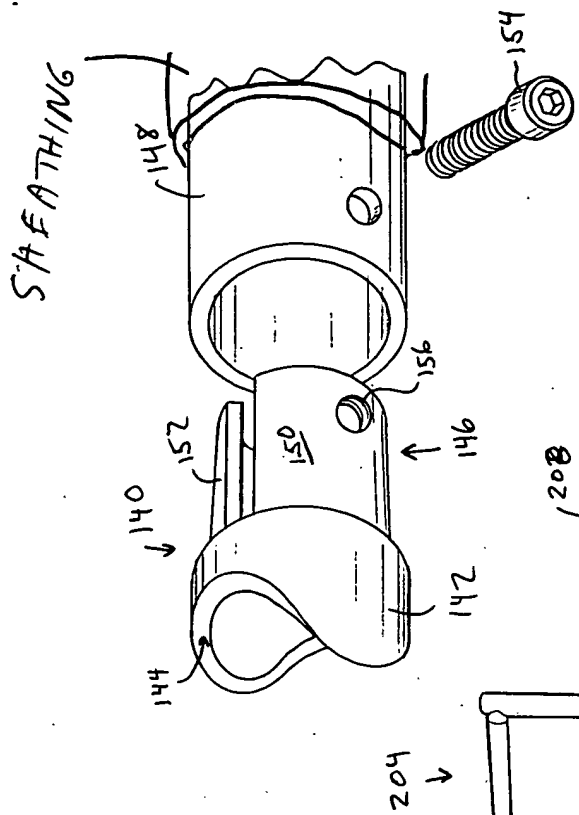


FIG-2C

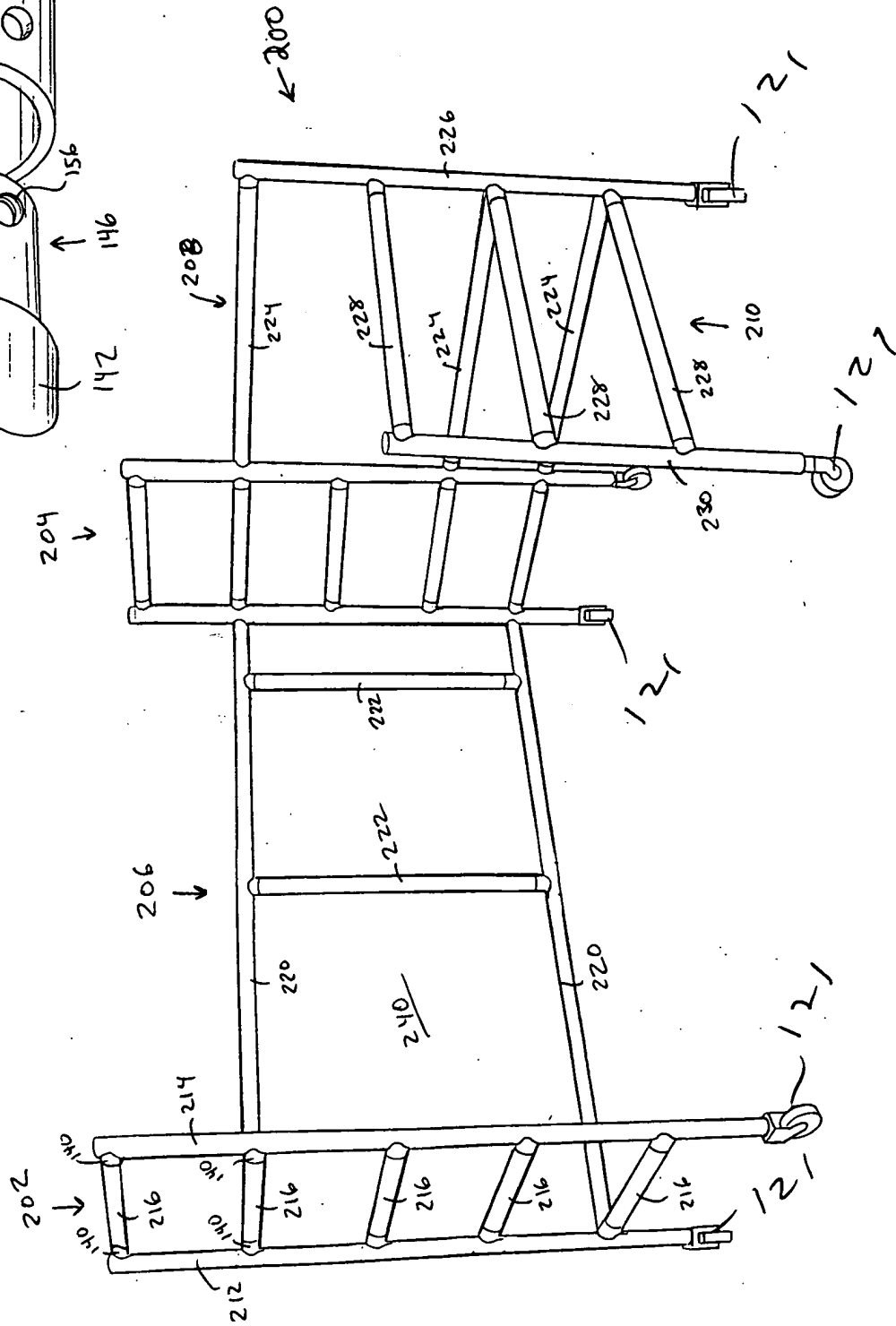


FIG-3



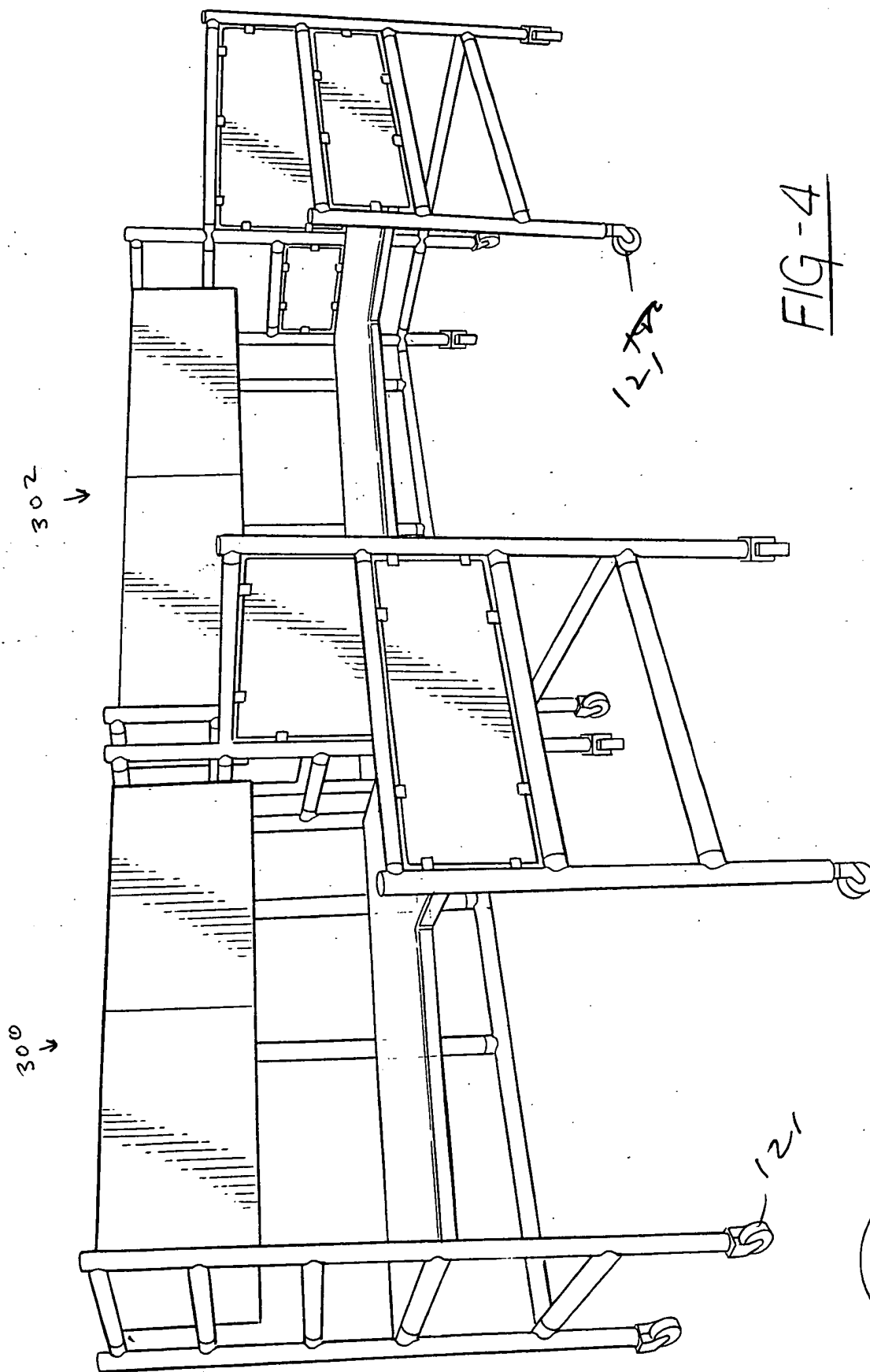


FIG-4

